

Kathy Vernon,
Plaintiff,

v.

Michael J. Astrue,
Commissioner of Social Security,
Defendant.

) Civil Action No.: 0:11-2096-MGL
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OPINION AND ORDER

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D. S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pretrial handling. On October 18, 2012, the Magistrate Judge issued a Report and Recommendation in which she determined that the Commissioner's decision was not supported by substantial evidence. Accordingly, the Magistrate Judge recommended that the case be remanded pursuant to sentence four of 42 U.S.C. § 405(g) to the Commissioner for consideration of additional evidence submitted by Plaintiff's treating psychiatrist Dr. Wiley and any additional evidence the Administrative Law Judge deemed appropriate to consider. Plaintiff filed no objections to the to the Report and Recommendation. On November 5, 2012, the Commissioner filed a Notice of Not Filing Objections to the Report and Recommendation of Magistrate Judge.

The Magistrate Judge makes only a recommendation to this court. The

recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to her with instructions. 28 U.S.C. § 636(b)(1) In the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir.2005).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. For the reasons set forth herein and in the Report and Recommendation, the decision of the Commissioner to deny benefits is **reversed** and the action is **remanded** under sentence four of 42 U.S.C. § 405(g) for further administrative action.

IT IS SO ORDERED.

/s/ Mary G. Lewis
United States District Judge

November 7, 2012
Spartanburg, South Carolina